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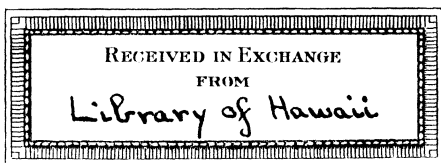
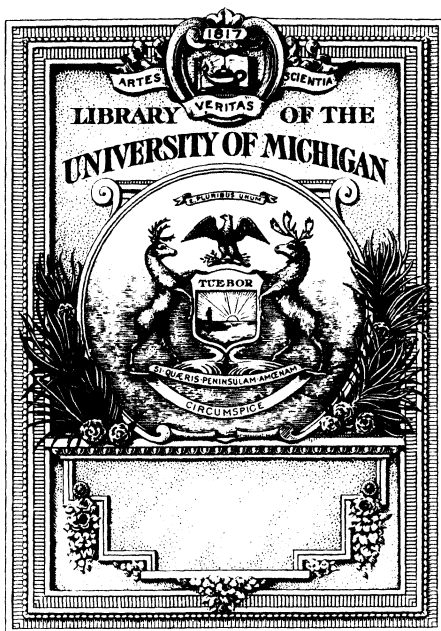
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## FOREIGN AFFAIRS.

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# REPORT OF SPECIAL COMMITTEE

TO THE

HAWAIIAN ASSEMBLY.

*Hawaiian Islands. Legislature*

HON. GODFREY RHODES,

*President of the Legislative Assembly,*

MR. PRESIDENT: The undersigned Special Committee, to whom were referred a majority and a minority report of the Committee on Foreign Relations, also a report of Hon. H. A. P. Carter, with two resolutions of Hon. Messrs. Rhodes and Gibson, beg to lay before the Assembly their views and conclusions on the questions involved.

The reports relate to two subjects: our treaty relations with Great Britain and a scheme of East India immigration.

In respect to the former, we are chiefly at issue with the Government of Her Britannic Majesty in regard to the interpretation of the fourth Article of the Anglo-Hawaiian Treaty of 1851, and have to consider a question of claims growing out of an alleged infringement of the requirements of this Article whilst in force.

The views taken on this subject by British and Hawaiian officials engaged in the discussion are so decidedly in opposition the one to the other that your Committee have anxiously sought for some solution or explanation of this wide divergence of opinion and interpretation. The Article in question

*Received 9.10.31.1901*

is the unconditional most favored nation stipulation of the Treaty, and insists that the commercial intercourse of the two contracting parties shall be such that whatever advantage is conceded by the one to a third party shall be enjoyed by the other, without reference to any compensation therefor. But this stipulation is preceded by one that is conditional, the third Article, which provides that when a concession is made by any party to a Treaty for an equivalent, that a similar concession can only be claimed by the other party in return for a corresponding value. And there is apparent conflict between these two Articles—the one conditional, and the other unconditional.

Now, from the Hawaiian standpoint in this discussion, which has the third Article mainly in view, it has been contended that this Government infringed no Treaty obligations with Great Britain by conceding to the United States in a Treaty of Reciprocity a free entry of certain goods into Hawaii, in return for a free entry into America of Hawaiian produce; and that Great Britain could not insist upon the enjoyment of a concession for which she could not offer any adequate compensation. And this view of our Government is sustained by a British interpretation of the above-mentioned conditional stipulation of the Anglo-Hawaiian Treaty, as is fully and clearly expressed in the Clarendon instructions of 1856. (See Appendix, Exhibit A.) No opinion or interpretation to the contrary of this view of the case has been received by this Government from the British Government until the Derby instructions of 1877. (See Appendix, Exhibit B.)

Hence it has been maintained by our Government that not only was there no infringement of our Treaty obligations with Great Britain growing out of a Convention of Reciprocity with America, but furthermore, there was no occasion for the denunciation of the fourth or unconditional Article of the

British Treaty in consequence of the operation of the American Convention.

On the other hand, the representatives of Her Britannic Majesty have claimed a consideration of the spirit as well as the letter of the Anglo-Hawaiian Treaty of 1851, and have pointed to the seventeenth Article as a general stipulation of comity, engaging each contracting party not to seek any modification of their compact except with a view to "the improvement of their mutual intercourse and to the interest of their respective subjects," and not to be brought about in consequence of either party making some "special tariff bargain" with another country.

At this point, your Committee beg to glance in review at some particulars in the history of our Treaty relations, and at our traditional policy as inculcated by the early organizers of our Government, and by the representatives of friendly Powers.

Hawaii has had a remarkable and instructive Treaty history. First, in her unrecognized state, she was subject to the arbitrary sponso, dictated by a naval commander, at the cannon's mouth. Afterwards, through earnest and faithful diplomacy, recognition is secured, and certain treaty relations are conceded, still with onerous restrictions, as though recognition was only partially granted to a nation in a state of pupilage,—inasmuch as foreign representatives were allowed to exercise judicial authority on our soil, and to dictate to our Government interferences in respect to legislative and ministerial action.

But Hawaii was guided by men who labored patiently under various difficulties to secure for her the untrammelled condition of a fully-recognised enlightened State. The able, faithful, far-seeing Wyllie felt deeply the treaty restrictions which affected the honor of his Sovereign and impaired the independence of his adopted State. By a course of negotia-

tion which must entitle him to rank high as a statesman, he induced great Powers to grant treaties to this young State, which recognised her perfect sovereignty and entire independence; and among the most important of these was the Anglo-Hawaiian Treaty of 1851. This was a boon from Great Britain to Little Hawaii. We are assured that this Treaty was framed in the Foreign Office at London, and sent for our Government's acceptance, as a voluntary offering of goodwill from England. (See Appendix, Exhibit C.) Therefore there are abundant grounds for Hawaii to entertain a high traditional regard for this Treaty. Yet it was not, and should not be our policy to entertain any partialities in treaties with great Powers. It especially behooves so weak a State as Hawaii to aim at uniformity and identity in the character of her international relations. She could not concede an especial favor to any one of several guaranteeing Powers without affecting the independence of her situation. Therefore all the early friends of Hawaii strongly recommended her to never grant any especial commercial favor to any nation. This was the instruction of King Leopold of Belgium, and the very especial injunction of the great statesman of America, Daniel Webster, who said to Hawaiian Commissioners that no Power in negotiation with this Kingdom "ought to seek for any exclusive privileges or preferences in matters of commerce." (See Appendix, Exhibit D.)

Now the American Treaty of Reciprocity may be regarded as a departure from this policy;—in its negotiation the spirit of the Anglo-Hawaiian Treaty of 1851 was overlooked, and its operation has led to the question at issue, as stated above, between the British and Hawaiian Governments.

It may be very properly urged that the spirit of the Anglo-Hawaiian Treaty of 1851, in its 17th Article, required that some preliminary proposition and mutual understanding between the two contracting parties should precede any sti-



pulations with a third party, calculated to disturb in any way the perfect harmony of their mutual intercourse, and that the unconditional obligations of the Treaty should be observed.

On the other hand, the conditional stipulation can be pointed at, and very decided grounds taken, that the 3d Article of the Anglo-Hawaiian Treaty especially recognizes the principle of reciprocity and of granting especial favors for valuable equivalents,—which favors, of course, are to be conceded to all other treaty parties who can offer a like consideration—the objection to this being that any one of two treaty parties should not negotiate with a third party a concession which it is known that its co-contractant is not in a condition to accept.

Hence your Committee must recognize that the negotiation of the American Reciprocity Treaty by our Government afforded some grounds for exceptions to be taken by treaty Powers claiming the most favored nation privileges ; and such exceptions were strongly taken by even legal minds in America. (See Appendix, Exhibit E.) And farthermore, an increase of the duty on imports in 1876, not called for by any deficiency of revenue, was an additional cause of irritation. But this treaty is not, after all, a ground of objections on the part of the British Government. We have assurances from the British Foreign Secretary, Lord Derby, in his instructions to the British Commissioner in Hawaii (see Appendix, Exhibit A), that the British Government accepted fully the explanations of our Envoy, Mr. Carter, in respect to the Reciprocity Treaty. Yet there is a reclamation on account of its operation—or rather, claims of importers of British merchandise are pointed out, who paid, as alleged, an excess of duty during the operation of the unconditional 4th Article, now withdrawn. At this point, your Committee venture to remark that Great Britain, owing to the difference between her Imperial and Colonial tariffs, was not herself in a condi-

tion to fulfil the treaty obligations stipulated for in the 4th Article of Anglo-Hawaiian Treaty of 1851. (See Appendix, Exhibit F). However, here is a case for the consideration of our Courts of Law, and for which the Constitution of this Government provides. And it is the opinion of your Committee that any stranger residing here under the protection of our laws, who feels aggrieved, should seek the remedies which these laws provide, and would only in case of denial of justice be warranted in making any appeal to another Power. Such a course of procedure would be in accordance with the spirit of an enlightened nation like Great Britain. We have a precedent in the treatment of a certain reclamation for excess of duties in the case of the "Asa Thor," under our treaty with Denmark. This was a question of claim growing out of treaty interpretation, which was adjudicated in our Courts, and our action was accepted by the Government of Denmark. (See Appendix, Exhibit G).

The amount of claims on account of excess of duty paid over ten per cent. are so small—only \$1,177 14—(see Appendix, Exhibit H) that it is evident to your Committee that the whole question is mainly one of principle. Of course, the smallness of the amount claimed will not tend to diminish the importance of the principle involved in the estimation of a Treaty-observing nation like Great Britain. And when such a Power expects a like exactitude of observance from Hawaii, it is in the highest sense a recognition of our perfect independence.

A Kingdom like Hawaii, whose only strength as a State is her weakness, should be especially scrupulous in respect to the exact observance of her Treaties with great Powers. She should be prompt to respond to any question of reclamation, and by her intelligence, open and impartial dealing, command a recognition of her moral worth that would raise her in the rank of nations far beyond the extent of her material resources and power.

Your Committee, after a review of the several reports and resolutions, and of all the correspondence bearing upon the subject, are of opinion that there is no question at issue in respect to Treaty relations with Great Britain which cannot be adjudicated by our Courts of law. The Constitution of this Kingdom, according to Article 67, requires that all controversies growing out of the operation of our Treaties shall be submitted to our Supreme Court of Justice. And although in Great Britain Courts of Justice do not take cognizance of any questions of claims growing out of Treaties, yet there is no expression emanating from Her Britannic Majesty's Government which would lead us to suppose that they would object to the course of action prescribed by our laws. The British Government makes no demand, and British or other foreign residents having claims must present them to our Courts. And your Committee would recommend, as in the case of the Danish reclamation cited, to submit our action to the opinion of a British jurist and adviser of the British Crown.

Your Committee will observe that the mission of our Envoy, Mr. H. A. P. Carter, though failing in its objects, yet was productive of advantageous results in satisfactorily explaining the American Reciprocity Treaty to the British Government, and thereby removing any possible ground of misunderstanding.

Though it became a necessary consequence of the British interpretation of the fourth Article of the Anglo-Hawaiian Treaty to denounce and expunge this Article from the Treaty, yet no unfriendly feeling has followed; and by the consent of our Government to withdraw the denunciation of the fifth and sixth Articles of said Treaty, an improvement in the harmony of our relations with the Government of Her Britannic Majesty has been the result.

Your Committee feel that this is an occasion for the Nobles of the Hawaiian Kingdom, and the Representatives of the

Hawaiian people, to declare their high appreciation of all Treaties with Great and friendly Powers, to proclaim their purpose to avoid all occasion for the slightest infringement of them, and to recognize the maintenance of such Treaties as the surest guarantee of the independence of the Hawaiian Kingdom and People.

In respect to the scheme of East India immigration, your Committee have no information except the statements of our Envoy, Mr. Carter. They regret to observe his report of the difficulties that stand in the way of any realization of this scheme. Still, your Committee are led to hope, from the friendly spirit in which our proposition was met by Her Britannic Majesty's Government, that under other circumstances and on another occasion, that Hawaii's need of population, and especially her disproportion of the sexes, may be favorably considered and answered in the populous Eastern dominions, and among the cognate races, which acknowledge the sway of the Empress of India.

WALTER M. GIBSON,  
*Chairman;*  
 J. W. MOANAULI,  
 J. NAKALEKA,  
 EDWARD PRESTON,  
 W. R. CASTLE.

ALIOLANI HALE, July 26th, 1878.

# APPENDIX.

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## EXHIBIT A.

### FROM APPENDIX TO REPORT OF MINISTER OF FOREIGN RELATIONS TO LEGISLATIVE ASSEMBLY OF 1857.

HONOLULU, March 28th, 1856.

SIR: Her Britannic Majesty's Government having received a copy of a Convention concluded on the 20th of July, 1855, between the Sandwich Islands and the United States, by which each party engages to admit into its territories, duty free, certain articles the produce of the territories of the other, I have been instructed by the Earl of Clarendon, Her Majesty's Secretary of State for Foreign Affairs, to address myself to the Hawaiian Government and to urge on them the following considerations, with a view to obtain for British commerce the same advantages which have been conceded to the United States by the beforementioned Convention :

The IV Article of the Treaty between Great Britain and the Sandwich Islands of the 10th July, 1851, stipulates that no other or higher duties shall be charged on the importation into the Sandwich Islands of any article the growth, produce or manufacture of the British dominions than are or shall be payable on the like articles the growth, produce or manufacture of any other foreign country. If this were the only stipulation in the Treaty bearing upon the subject, the claim of Great Britain to participate in the advantages conceded to the United States by the Convention in question would be clear; but as the next preceding Article of the Treaty of 1851 contains a stipulation that any favor which either party may grant to a third country shall be extended to the other party on corresponding terms—that is, either gratuitously or for an equivalent compensation, as the case may be; and as the advantages conceded to the United States by the Sandwich Islands are expressly stated to be given in consideration of, and as an equivalent

for, certain reciprocal concessions on the part of the United States, Great Britain cannot, as a matter of right, claim the same advantages for her trade under the strict letter of the Treaty of 1851.

Unless, however, the Convention between the Sandwich Islands and the United States was concluded with an unfriendly feeling towards Great Britain, which Her Majesty's Government have no reason to suppose, it is probable that the Government of the Sandwich Islands will be willing to extend its benefits to Great Britain in consideration of the terms of Article IV of the Treaty of 1851 and of the general liberality of the British commercial system. To such a participation Great Britain is in equity entitled, not only because it is not her practice to cut down the effect of an Article such as Article IV of the Treaty of 1851 by making special tariff bargains with foreign countries, but because she had already some years ago admitted duty free eleven out of the nineteen articles the produce of the Sandwich Islands enumerated in Article I of the Convention with the United States, which the United States have now only consented to admit on the same terms, and the remaining eight the duties levied, except in the instance of sugar, are almost nominal.

The amount of trade between Great Britain and the Sandwich Islands at the present time is so small that the question, so far as Great Britain is concerned, is one more of principle than practical value. Even, however, if that were the full extent of the question, exertion would be used to obtain the recognition of the principle for which Her Majesty's Government contend.

But as regards Van Couver's Island, the evils of such a partial arrangement as that contained in the Convention will be very sensibly felt, inasmuch as the fish with which that Island supplies the Sandwich Islands will hereafter be placed at a disadvantage of ten per cent. in comparison with American produce, and other articles will be similarly affected; and this notwithstanding Van Couver's Island admits duty free the produce ordinarily imported from the Sandwich Islands. Trusting that the King and his Cabinet will be pleased to take this important question into their early and favorable consideration,

I have the honor to be, Sir, your most humble, obedient servant,

WILLIAM MILLER.

To R. C. Wyllie, Esq., Minister of Foreign Relations.

## EXHIBIT B.

FOREIGN OFFICE, Jan. 25th, 1878.

MAJOR WODEHOUSE,

SIR: I have now to supply you on your return to your post with instructions in regard to the recent commercial negotiations with Mr. Carter, the Hawaiian Envoy to this country, in connection with the discussion between Her Majesty's Government and the Hawaiian Government relative to the infringement of the provisions of the Treaty of July 10th, 1851, between Great Britain and the Sandwich Islands, by the manner in which the Reciprocity Treaty of January 30th, 1875, between the United States and the Sandwich Islands has been put into operation by the Hawaiian Government.

Mr. Carter had his first interview with me on the 27th of August. I expressed to him in general terms the friendly sentiments of Her Majesty's Government towards the King and people of Hawaii; and as the question respecting which he had come to treat involved matters of detail, I then referred him for the discussion of these points to Mr. Lister and Mr. Kennedy. Previously to Mr. Carter's arrival, Mr. Manley Hopkins, the Hawaiian Consul-General in London, had given notice of the desire of the Hawaiian Government to terminate, under the terms of Art. 17 of the Treaty of July 10th, 1851, Articles 4, 5 and 6 of that treaty. He announced at the same time that a Special Envoy was coming to this country from Hawaii for the purpose of settling the differences which had arisen, or at best of explaining fully the position of the Hawaiian Government in the matter. This communication was made in a friendly sense, and it thus coincided with the report on the subject contained in your Despatch No. 2 Commercial of the 23d of May, 1877; but in its terms this notice went beyond the actual requirements of the case; for while the points in discussion were limited to the first paragraph of Art. 4, Mr. Manley Hopkins gave notice to terminate the whole of that Article, and also Art. 5 and 6. Mr. Carter explained at length in several conversations the reasons which had induced the Hawaiian Government to enter into the Reciprocity Treaty of 1875 with the United States. The question in discussion was, however, further complicated by a tariff law passed by the Hawaiian Legislature in 1876, by which the Hawaiian Government, besides ex-

emptying the goods specified in the Schedule to Art. 2 of that Reciprocity Treaty from payment of custom duties, had augmented the rates of custom duties previously levied on mixed textiles, and on certain other goods of British manufacture which are of much importance in the trade between this country and the Hawaiian Islands. The Hawaiian Government have thus not only infringed the stipulations of their treaty with this country by refusing to admit British goods on the same terms as United States goods, but they have increased the rate of the differential duty, which, contrary to treaty, they have thus established, by raising that duty in certain cases from ten to twenty-five per cent., and they have apparently proceeded to levy these duties without waiting for the expiration of the twelve months' notice given for the termination of Art. 4 of the British Treaty of 1851. This state of things gave Her Majesty's Government ground for serious complaint. But they were unwilling, if it could be avoided, to depart from the friendly policy which they have hitherto maintained towards the Hawaiian Islands. Mr. Carter then communicated, as an alternative plan for the settlement of this matter, the accompanying drafts of Additional Article and of Declaration. But these documents would merely give the sanction of the two Governments to the course which has been taken by the Hawaiian Government. They are each alike opposed to the view of the whole question taken by Her Majesty's Government, and to their interpretation of Article 4 of the Treaty of 1851. I therefore caused you to be instructed to supply a statement of the points under consideration, with especial reference to their bearing on British commercial interests; and, after considering the subject, in order to act as far as possible in accordance with the friendly policy of Her Majesty's Government towards the Hawaiian Islands, without insisting as a step preliminary to negotiation on the removal or modification of causes of complaint, I addressed Mr. Carter the enclosed note, proposing for his acceptance a draft of Declaration, prepared with the object of making the difference between the two Governments simply a difference of interpretation, and by taking that basis to facilitate a settlement of the points at issue. It was understood that if Mr. Carter accepted this Declaration, he would also accede to the suggestions made in my note of the 11th July, that the notice of termination of these



Articles should not take effect ; and it was explained to him that the schedule annexed to the draft of Declaration was open for modification, namely, that if he so wished, the designation of goods mentioned therein in general terms might be limited to certain classes of them, and that some of the goods mentioned, carriages for example, might be altogether omitted from the list. Mr. Carter, however, did not proceed with the negotiation on this basis ; and at an interview with me on the 9th of November, he communicated to me a memorandum in which, by referring to correspondence in 1856, when a previous reciprocity treaty which was not ratified, and therefore never came into operation, was in discussion, and to correspondence in 1867 about consular privileges, he sought to controvert the interpretation given by Her Majesty's Government to Art. 4 of the Treaty of 1851. But these matters are, in the opinion of Her Majesty's Government, beside the question now at issue. The correspondence in 1856 was incomplete, for it related to a state of things which, as that reciprocity treaty did not come into operation, in reality never arose. The consular question is obviously quite a different subject.

In the absence of Mr. Lister, and as a proof of the constant desire of Her Majesty's Government to act in a friendly manner towards the Hawaiian Government, I then placed Mr. Carter in semi-official communication with Lord Tenterden. But this course likewise failed to discover the means of arriving at a satisfactory settlement.

It was suggested to Mr. Carter that the Hawaiian Government should engage that the Schedule of the United States Treaty of 1875, or even a modified form of that Schedule, should be annexed to the British Declaration proposed to be substituted for the first paragraph of Art. 4, with a proviso that the duty of the goods comprised in it, when of British origin, shall not, while the Reciprocity Treaty of 1875 is in force, exceed 10 per cent. ad valorem ; that the unnecessary denunciation of the remaining part of Art. 4 and of Art. 5 and 6 should be withdrawn, and that effect should be given to these engagements in such manner as would be most in accordance with the Hawaiian Constitution. But Mr. Carter was not willing to agree to these suggestions; and as an alternative plan, he proposed that the most favored nation stipulation in the Treaty of

1851 should be held not to apply to the Reciprocity Treaty of 1875 or to concessions made by treaties between the Hawaiian Islands and countries in or bordering upon the Pacific Ocean. This plan, however, was found on examination to be the same as that proposed in the drafts of Additional Article and of Declaration communication by Mr. Carter on the 13th September; and which, in my note of the 25th October, he had been informed could not be adopted by Her Majesty's Government. He was accordingly again informed so. He was further asked to say whether he was willing to withdraw the denunciation of the Articles 5 and 6 of the Treaty of 1851, for in conversation the precise meaning of a statement on this point in his memorandum of the 9th of November was not very clear. Before, however, this answer could be sent off, he announced that he was about to leave for the Continent, and up to this time no reply has been received to the semi-official letter in which this answer was conveyed to him. Having now stated the course of the recent negotiations, I will proceed to make known to you the views of Her Majesty's Government in the present position of the question. I have to observe, in the first place, that in dealing with it Her Majesty's Government have to consider it not merely as regards the relations between Great Britain and the Hawaiian Islands. The arrangement which may be arrived at for its settlement will also have a bearing upon the commercial relations and engagements of this country with foreign States generally. Her Majesty's Government cannot therefore be parties to any arrangement which would be opposed to their general commercial policy. They are willing to accept fully the explanation given by you and by Mr. Carter in regard to the Reciprocity Treaty between Hawaii and the United States, and they have no wish that that Treaty should impair their friendly sentiments towards Hawaii. But at the same time, as a necessary condition to this friendly understanding, Her Majesty's Government expect that the Hawaiian Government will remove just causes of complaint; and the draft of Declaration proposed in my note to Mr Carter of the 25th of October last not having been accepted, you must not give any pledge that the offer then made will be repeated. In consideration of the peculiar circumstances of the commercial relations of the Hawaiian Islands, as explained by Mr.

Carter, and the statements made by you after communication with British merchants interested in the trade with those Islands, Her Majesty's Government proposed this method of settlement of the points in discussion between the two Governments. But it was only as a temporary arrangement, the Reciprocity Treaty of 1875 being limited in duration, and only under the peculiar circumstances of the case, that Her Majesty's Government could agree to any sort of differential treatment of British goods, and a formal agreement to the reduction of the 25 per cent. duties to 10 per cent. as a maximum was a necessary condition of any such arrangement. Without reverting to questions of the interpretation of Art. 4 of the Treaty of 1851, for the termination of which notice has been formally given by the Hawaiian Government, I have to instruct you, on your return to Honolulu, to make the following statements to the King and to the Government of Hawaii:

1. Her Majesty's Government cannot admit the right of the Hawaiian Government to terminate the operation of the provisions of that Article until the expiration of the twelve months' notice which they have given. While it remains in force, Her Majesty's Government must require that it shall be faithfully observed, and consequently duties improperly levied must be repaid.

2. Without further explanation to justify such a course, Her Majesty's Government must regard the abrogation of Art. 5 and 6 in the Treaty of 1851, when the only point in discussion is the first paragraph of Art. 4, as an unnecessary and unfriendly act.

3. Her Majesty's Government must regard as a specially unfriendly act the levying, when the treaty stipulation for most favored nation treatment in matters of tariff shall terminate, of any such differential rate of duty as 25 per cent. on British goods imported into the Hawaiian Islands. You will give a memorandum embodying these three statements to the Hawaiian Minister with whom you may be in communication on your return to Honolulu, and if you think fit you may read this dispatch to him and supply him with a copy of it.

I am, Sir, your most obedient, humble servant,

(Signed)

DERBY.

FOREIGN OFFICE, October 25th, 1877.

SIR,—I have now the honor to inform you that Her Majesty's Government have carefully considered the drafts of an additional Article to the Treaty of 1851 between Great Britain and the Hawaiian Islands, and of a declaration which you have communicated as alternative means of obviating any difficulties with respect to the interpretation of the 4th Article of the Treaty of 1851. I have, however, to inform you that Her Majesty's Government see objections to accepting either of these documents. They are, at the same time, after considering your explanation of the subject, desirous of showing in their manner of dealing with the question their friendship for the King and people of the Hawaiian Islands, and of assisting as far as in their power the object of your mission, to remove any difference between the two countries. I have accordingly the honor to communicate to you herewith the draft of a declaration which, on the part of Her Majesty's Government, I have caused to be prepared, with the view to settle this difference of interpretation. I think it right to state that it is only in consideration of the peculiar circumstances of the commercial position of the Hawaiian Islands which you have explained that Her Majesty's Government are willing to propose this mode of settlement, and that they regard their action in waiving the strict application of Article 4 of the Treaty of 1851, as it now stands, as an especial mark of friendship and goodwill. At the same time, I think it right to state, in order to avoid any possible misunderstanding, that in consenting to the proposed declaration and the alterations in the terms of Article 4, Her Majesty's Government maintain their interpretation of it while it remains in force, and that consequently any claims preferred on account of excessive duties levied in contravention of that Article of the Treaty should be entertained by the Hawaiian Government.

I have the honour to be, with the highest consideration, Sir,

Your most obedient, humble servant,

(Signed)

DERBY.

DRAFT OF DECLARATION.

The Government of Her Majesty the Queen of the United Kingdom of Great Britain and His Majesty the King of the Hawaiian Islands being desirous of obviating any difficulties which may arise in regard

to the interpretation of Article 4 of the Treaty of Friendship, Commerce and Navigation between Great Britain and the Hawaiian Islands, of the 10th of July, 1851, the undersigned, duly authorized for the purpose, have agreed upon the following provisions :

His Hawaiian Majesty engages to recommend to the Legislative Assembly of the Hawaiian Islands that the duty on the goods specified in the schedule attached to this declaration, the produce or manufacture or coming from the United Kingdom of Great Britain and Ireland, or of British Colonies or possessions, shall, upon their importation into the Hawaiian Islands, not exceed 10 per cent. ad valorem. As soon as an enactment to the above effect shall have been passed by the Hawaiian Legislative Assembly, the stipulations in regard to import and export duties contained in Article 4 of the Treaty of the 10th July, 1851, shall become and remain inoperative as long as the said law shall be in force.

*Schedule.*

Tissues of all materials, pure or mixed.

Metals of all kinds, raw or manufactured, or in any stage of manufacture, pure or alloyed.

Cutlery, tools, and agricultural and other implements, with or without handles of wood or other material.

Machinery, complete or in pieces.

Saddlery and harness ; floor oil-cloth.

Hats and caps of all kinds.

Boots and shoes.

Earthen, glass and china ware.

Colors, paints and turpentine.

Cobra, linseed and cotton-seed oils.

Soaps, scented or not.

Carriages, entire or the materials of.

Fire-bricks and fire-clay, Portland cement, lumber.

## EXHIBIT C.

*Extract of Letter of His Ex. R. C. Wyllie, Minister of Foreign Relation, to Gustave A. Reiners, Esq., Consul of Prussia. Honolulu, 23d February, 1857.*

“ However brought about the important fact is that Great Britain voluntarily sent out the draft of treaty concluded on the 10th July, 1851, between H. B. M.’s Consul General William Miller and me, of which I enclose copy marked No. 6.” \* \* \*

## EXHIBIT D.

*Extract of Letter of Hon. Daniel Webster to Hawaiian Commissioners Richards and Haalilio, at Washington. Dec. 19, 1842.*

“ The United States have regarded the existing authorities in the Sandwich Islands as a Government suited to the condition of the people and resting on their choice ; and the President is of opinion that the interests of all the commercial nations require that that Government should not be interfered with by Foreign Powers.

“ Of the vessels which visit the Islands, it is known that a great majority belong to the United States. The United States, therefore, are more interested in the fate of the Islands and of their Government than any other nation can be ; and this consideration induces the President to be quite willing to declare, as the sense of the Government of the United States, that the Government of the Sandwich Islands ought to be respected ; that no Power ought either to take possession of the Islands as a conquest, or for the purpose of colonization ; and that no Power ought to seek for any undue control over the existing Government, or any exclusive privileges or preferences in matters of commerce.”

*Extract of Copy of the Despatch addressed by H. S. Fox, Esq., the British Minister at the Court of Washington, to the Hon. H. P. Upshur, Secretary of State. June 25th, 1843.*

“ All that has appeared requisite to Her Majesty’s Government has been that other Powers shall not exercise there a greater influence than that possessed by Great Britain.”

*Extract of Copy of the Hon. A. P. Upshur's Despatch in reply to that of H. S. Fox, Esq., the British Minister at the Court of Washington. July 5th, 1843.*

Seeking to establish no undue advantage in the Sandwich Islands for citizens of the United States at the expense of other Powers, the President receives with much pleasure the assurance contained in Mr. Fox's note, that none such are sought for Great Britain. He cannot doubt that the recognition of the independence and the sovereignty of those Islands will be found altogether compatible with every just claim of Great Britain, while it will best conduce to the interests of the Islands themselves and of all nations having intercourse with them.

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EXHIBIT E.

*Extracts from Hon. E. H. Allen's Despatch to Mr. Wyllie, 4th February, in relation to Reciprocity Treaty. 1857.*

"The legal objection in the Senate arises from the most favored nation clause in other treaties. \* \* \* \*

"I have seen a great many of the Senators when I came here, that most favored nation clause met me everywhere. \* \* \*

"In relation to the treaty I can only say that the only serious obstacle seems to be the most favored nation clause in other treaties."

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EXHIBIT F.

EXTRACTS FROM TARIFF OF VICTORIA, 1877.

TWENTY PER CENT. AD VALOREM :—

*Articles of Apparel.*

Aprons, breeches, coats, capes, cloaks, furs, frocks, hoods and hats, bobs, jackets, mantles, scarfs, night-dresses, petticoats, ruffles, robes, shirts of all kinds, stays, shawls, trowsers, vests, men's, women's and children's underclothing, silks of all kinds and in part.

Carriages and carts, furniture, agricultural implements, machinery, manufactures of metals of all kinds, manufactured stationery, musical instruments, woodenware of all kinds.

## TEN PER CENT. AD VALOREM :—

Carpeting and druggeting, clocks, combs, gloves, watches, woolen piece goods.

Almonds, bacon, biscuits, 2d per lb; ale, porter and other beer, 9d per gallon; bags and sacks, 1s per doz; boots and shoes (men's), 25s per doz prs; do do, youths', 15s do do; do do, boys', 11s do do; do do, women's, do do; playing cards, 3s per doz packs; chinaware, 9d per cubic foot; cigars, 5s per lb; doors, 5s each; aloes, 12s per cwt; chlorodyne, 1s 4d per lb; morphia, 1s 6d per oz; potassium, 10d per lb; earthenware, 9d per cubic foot; lead, 2s 6d per cwt; matches per gross (boxes coontaining 100), 6d; nails (common), 3s per cwt; horseshoes, 12s per cwt; oils, 6d per gallon; oat meal, 3s per 100 lbs; onions, 20s per ton; parasols and sun-shades (silk), 1s 9d each; paints (ground in oil), 40s per ton; powder, 3d per lb; sugar and molasses, 3s per cwt; spirits, liquors and cordials, 10s per gallon; perfumed spirits, 20s per gallon; tobacco (manufactured), 2s per lb; do, unmanufactured, 1s per lb; wines 4s and 6s per gallon.

## EXHIBIT G.

DEPARTMENT OF FOREIGN RELATIONS,  
COPENHAGEN, July 28th, 1856.

SIR : Under the date of the 13th February last you have addressed the Department, on account of an order with which you have been charged by your Government at Honolulu, respecting an intepretation given to the 7th (or the 8th) Article of the Treaty concluded between Denmark and the Sandwich Islands on the 19th of October, 1846, in a decision delivered by the Supreme Court of the said town in the month of May last year, in a case between the firm of Melchers & Co., as plaintiffs, and the Custom Office, as defendant, concerning the amount of the import duty to be levied on a cargo imported from Hongkong into the said port by the said firm in the Danish vessel "Asa Thor."

In the said case it was established by the Court that no application could be made of the Act passed by the Hawaiian Legislature on the 24th May, 1853, by which the duty on Chinese goods was fixed at 15 per cent., as being in discordance with the said article of the Treaty,



whereas in the case in question there could only be claimed a duty of 5 per cent., being that payable on goods which are the produce of the most favored nations ; and on this ground the Court decided that the said firm should be entitled to recover the sum of \$2,141.08 overpaid by them on the said cargo. As, however, the Hawaiian Government could not admit the opinion expressed by the interpretation put on the above-mentioned article by the said decision, pretending that such an interpretation would, when definitely established, be productive of consequences most likely of great prejudice to the Hawaiian exchequer, you have, sir, through this Department, requested the opinion of the Danish Government, as the other contracting party, concerning the interpretation to be given to the said article of the Treaty.

The Right Honorable the Rear-Admiral Bille, who, as Commander of the Danish ship-of-war "Galathea," visited the Sandwich Islands in the year 1846, and then concluded the said Treaty with the Royal Hawaiian Government, having now, at my request, communicated his views as to the interpretation of the 7th and 8th Articles of this Treaty, and this Department having moreover obtained, through the respective Consul-Generals, copies of the several treaties, partly existing at the time and partly afterwards concluded between the said Government and France, as well as England, His Danish Majesty's Department of Foreign Relations do hereby hand to you the following communication for the purpose in question :

When Denmark, as in the year 1846, concluded a Treaty with a State, as the Hawaiian Kingdom, there could be no sufficient motive to induce the Government of the former country to extend, by such a treaty, the acquisition of any greater advantage than that of procuring to Danish ships and merchandise on the Sandwich Islands a treatment *equal* to that granted in the said Kingdom to the most favored nations. If, therefore, any doubt should happen to rise with regard to the interpretation of any of the articles contained in the said Treaty, the Hawaiian Government might be convinced that the Danish Government would not consider what might be regarded as most profitable to the trade and navigation of this country, but only what must, in the sincere opinion of the same, be regarded as the real intention of the functionaries who, as representatives of their respective Governments, had negotiated the said Treaty. Such a doubt has now risen, it being, as

above remarked, the question in what manner the 7th Article of the Treaty ought in the future to be interpreted, according to the mutual opinions of the two negotiators, without any regard to the interpretation put on it by others, either on the one or the other side. By the decision delivered by the Supreme Court at Honolulu, in the action brought on by the said firm against the Hawaiian Exchequer, the expressions of the said article have been interpreted in a manner so as to imply that Danish productions or other goods, on board of or imported in Danish vessels, which are allowed to be imported by the ships of other countries, shall not be prohibited nor pay any higher duties than those levied on productions of the most favored nations; whereas the Hawaiian Government averred that the wording of the said article could not receive any other interpretation than this: That goods imported by Danish ships should be subject to the same duties as are paid by the most favored nations. The part of the wording of the said Treaty on which the question chiefly depends is then those words of the 7th Article which say that the there mentioned Danish productions or other goods on board of Danish vessels "shall not be prohibited nor pay more than those duties levied on goods of the most favored nation."

On a mere perusal of these words, without any regard to other matters which might else possibly be worth noticing, His Danish Majesty's Government should indeed agree in the interpretation thus established by the said court as the only correct one; but, on the other hand, it could not be thought strange that the Hawaiian Government should be of opinion that it had been the intention of the respective representatives of the said contracting Powers, in regard to the duty in question, to establish a rule contrary to the interpretation given by the said court, an opinion which might be supported as well by the construction of the said words of the Treaty, as especially by the declaration of the Minister of Foreign Relations at Honolulu, who represented the Hawaiian Government in negotiating and concluding the said Treaty, that, for his part, he had never thought of such an interpretation as that established by the Supreme Court as the only correct one.

The second of the negotiators, the Rear-Admiral Bille, has, in his report to this Department, declared that he had in every respect shared the same opinion as to the negotiations and the final conclusion of the said Treaty as that professed by the Hawaiian Minister of Foreign

Relations, in addition to which he has further remarked that it had never been his thought by the said Treaty to impose any restriction on the Hawaiian Government in regard to the prerogative of raising or lowering duties at its own discretion, but that, on the contrary, he would indirectly have the said prerogative acknowledged.

Such a declaration of His Danish Majesty's representative must naturally have great influence on the interpretation of the said article to be followed in the future. But, besides this, there is another circumstance of great moment which still more corroborates the declaration of the two representatives, viz., that while the wording of the 7th Article of the English original Treaty are so dubious, as above shown, the corresponding words of the Danish translation of the Treaty, which, like the Hawaiian translation, is annexed to the English original, are clear and evident, saying, that the oft-mentioned Danish productions or goods in Danish vessels : " Ickeheller skülle betale mere end saadanne Toldafgifter, som i saadant Tilfælde ere paalagte de meest begunstigede Nationer."

In consideration hereof the Royal Danish Government does not object to the *future* admission of this interpretation by the Hawaiian Government, as soon as an official notification concerning the same has previously been issued.

But as the original of the above said article is interpreted in the above-mentioned manner by the Supreme Court of the Hawaiian Kingdom, this interpretation must, in the opinion of the Danish Government, be valid until such a declaration shall have been published by the Government at Honolulu ; and, moreover, it must be considered as a matter of course that the firm of Melchers & Co , at Honolulu, either have received or will receive of the Hawaiian Government reimbursement of the said 10 per cent. overpaid by them on Chinese goods imported in the Danish ship " Asa Thor " into Honolulu.

Finally, I observe that, in consideration of the premises, there will, when a notification as that above-mentioned has taken place, according to the said Act of the 24th May, 1853, hereafter be paid on Chinese goods, imported in Danish vessels into the ports of the Sandwich Islands, the higher duty of 15 per cent , instead of the earlier of 5 per

cent., as long as this duty is paid in the Hawaiian Kingdom by the vessels of the most favored nations.

Having the honor to return to you the different enclosures which followed your said letter to this Department, I avail myself of this opportunity to assure you, Sir, of my high esteem.

(Signed)

SCHEELE.

EXHIBIT H.

COLLECTOR-GENERAL'S OFFICE,  
HONOLULU, H. I., July 18th, 1878. }

*To His Excellency S. K. Kaai, H. H. M.'s Minister of Finance,*

SIR: In reply to the communication of yesterday's date from your Excellency's Department, I herewith inclose the list of parties who have protested against paying the additional fifteen per cent. duties under the Tariff Act of 1876, which was enforced with all Treaty Powers on and after the 12th October, 1877.

That you may see the grounds of protest, I send the several protests that were filed at this office.

The total amount of the fifteen per cent. duty on *protested entries* is \$1,177 14. This is all that I consider as direct protests against the Tariff Act.

I have a much larger list of protests against duties paid upon British, German and French goods, which goods would have been admitted free if the growth, produce or manufacture of the United States, under the Treaty of Reciprocity.

I have the honor to be, Sir, your Excellency's most ob't servant,

W. F. ALLEN, *Collector-General.*

LIST OF PARTIES PROTESTING.

Ed. Hoffschlaeger & Co.—

Oct. 1, 1877, ex R. C. Wyllie, Germ'y and Gt. Britain, 15 per cent....	\$1,336 29	\$200 44
Dec. 10, 1877, " " " ....	776 04	116 40
Dec. 13, 1877, ex City N. York, " " " ....	161 58	24 23
Feb. 5, 1878, ex St. Paul, " " " ....	179 02	26 85
Feb. 26, 1878, ex Australia, " " " ....	244 73	36 70
Mar. 27, 1877, ex City N. York, " " " ....	139 89	20 97
April 10, 1878, ex Iolani, " " " ....	391 84	58 77
April 23, 1878, ex Zealandia, " " " ....	132 29	19 83
May 7, 1877, ex Wilmington, " " " ....	66 97	9 90

—\$ 504 19

**F. A. Schaefer & Co.—**

Oct. 18, 1877, ex City Sydney, “ “ “ ....	1,318 41	197 76	
Nov. 9, 1877, ex Courier, “ “ “ ....	782 78	118 41	
Dec. 13, 1877, ex City N. York, “ “ “ ....	667 35	100 10	
Mar. 1, 1878, ex Glencoe, Great Britain, 15 per cent.....	212 63	31 39	
Mar. 1, 1878, “ “ “ champagne ..		64 65	
			————\$ 522 21
Castle & Cooke, Oct. 13, 1877, ex W. H. Meyer, Japan, 15 per cent..	70 17	10 53	
			————\$ 10 53
J. T. Waterhouse, Jan. 2, 1878, ex Hertfordshire, G. Brit., 15 per ct..	155 75	23 35	
			————\$ 23 35
Dillingham & Co., Apr. 3, 1878, ex St. Paul, Ger. & G. Brit., 15 per ct..	219 15	32 87	
			————\$ 32 87
Theo. H. Davies, July 12, bonded goods, “ “ “ ..	559 93	83 99	
			————\$ 83 99
			————\$1,177 14

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## A D D E N D A .

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### ANGLO-HAWAIIAN TREATY—EXTRACTS.

JULY 10TH, 1851.

#### ARTICLE III.

The two contracting parties hereby agree that any favor, privilege, or immunity whatever, in matters of commerce or navigation, which either contracting party has actually granted, or may hereafter grant, to the subjects or citizens of any other State, shall be extended to the subjects or citizens of the other contracting party; gratuitously, if the concession in favor of that other State shall have been gratuitous, or in return for a compensation as nearly as possible of proportionate value and effect, to be adjusted by mutual agreement, if the concession shall have been conditional.

#### ARTICLE IV.

No other or higher duties shall be imposed on the importation into the dominions of Her Britannic Majesty, of any article the growth, produce or manufacture of the Hawaiian Islands, and no other or higher duties shall be imposed on the importation into the Hawaiian Islands, of any article the growth, produce or manufacture of Her Britannic Majesty's dominions, than are or shall be payable on the like

article, being the growth, produce or manufacture of any other foreign country. Nor shall any other or higher duties or charges be imposed, in the territories of either of the contracting parties, on the exportation of any article to the territories of the other, than such as are or may be payable on the exportation of the like article to any foreign country. No prohibition shall be imposed upon the importation of any article the growth, produce or manufacture of the territories of either of the two contracting parties, into the territories of the other, which shall not equally extend to the importation of the like articles, being the growth, produce or manufacture of any other country. Nor shall any prohibition be imposed upon the exportation of any article from the territories of either of the two contracting parties to the territories of the other, which shall not equally extend to the exportation of the like article to the territories of all other nations.

#### ARTICLE V.

No other or higher duties or charges on account of tonnage, light or harbor dues, pilotage, quarantine, salvage in case of damage or shipwreck, or any other local charges, shall be imposed in any of the ports of the Hawaiian Islands on British vessels than those payable in the same ports by Hawaiian vessels; nor in the ports of Her Britannic Majesty's territories on Hawaiian vessels than shall be payable in the same ports on British vessels.

#### ARTICLE VI.

The same duties shall be paid on the importation of any article which is or may be legally importable into the Hawaiian Islands, whether such importation shall be in Hawaiian or British vessels; and the same duties shall be paid on the importation of any article which is or may be legally importable into the dominions of Her Britannic Majesty, whether such importation shall be in British or Hawaiian vessels.

The same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation of any article which is or may be legally exportable from the Hawaiian Islands, whether such exportation shall be in Hawaiian or British vessels; and the same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation of any article which is or may be legally exportable from Her Britannic

Majesty's dominions, whether such shall be in British or in Hawaiian vessels.

ARTICLE XVII.

In order that the two contracting parties may have the opportunity of hereafter treating and agreeing upon such other arrangements as may tend still further to the improvement of their mutual intercourse, and to the advancement of the interest of their respective subjects, it is agreed that at any time after the expiration of seven years from the date of the exchange of the ratifications of the present Treaty, either of the contracting parties shall have the right of giving to the other party notice of its intention to terminate Articles IV, V and VI of the present Treaty; and that at the expiration of twelve months after such notice shall have been received by either party from the other, the said Articles, and all the stipulations contained therein, shall cease to be binding on the two contracting parties.

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LETTER OF LORD TENTERDEN TO MR. CARTER.

FOREIGN OFFICE, December 28th, 1877.

SIR: The draft of declaration inclosed in your letter of the 17th instant has been carefully considered. The stipulations in limitation of provisions for most favored nation treatment proposed in that draft do not, however, correspond with the terms of the third paragraph of the declaration with Roumania of the 30th November, 1876; that paragraph refers only to matters affecting border districts, which from time immemorial have been treated as exceptional in the relations of European Powers with Turkey. It does not, as your proposal is understood to do, apply to such international arrangements as Reciprocity Treaties. Your present proposal, if rightly understood to apply to Reciprocity Treaties, is in effect the same as the method of dealing with the question which you previously suggested and which Her Majesty's Government regret that they cannot entertain. For in dealing with this question, Her Majesty's Government have to consider the proposed declaration not only as regards the relation between Great Britain and the Hawaiian Islands, but likewise in its bearings upon the

commercial relations and engagements of this country with Foreign States generally.

On general grounds, therefore, Her Majesty's Government are unable to accept a declaration in these terms. Lord Derby has stated to you verbally, and in a formal manner in His Lordship's note of the 25th of October, the friendly sentiments of Her Majesty's Government towards Hawaii. They are willing, as you have been informed, to accept fully any statements which you have made in regard to the Reciprocity Treaty with the United States, and they have no wish that those friendly sentiments should be affected by that Treaty. But apart from the Treaty, there are two matters with regard to which Her Majesty's Government may have ground for complaint—namely, first, the recent augmentation of duties if it is maintained upon goods the produce or manufacture of the United Kingdom; and secondly, the unnecessary denunciation of Articles V and VI of the Treaty of the 10th July, 1851, when the only point in discussion is the first paragraph of Article IV. Her Majesty's Government are willing to accept your assurances that the Hawaiian Government will propose to the Legislature the repeal of those augmentations.

As regards the second matter to which I have adverted, I would mention that Her Majesty's Government have hitherto, in the hope of satisfactory arrangement being come to, refrained from making any public announcement of the denunciation by the Hawaiian Government of Articles IV, V and VI of the Treaty of 1851. In the present position of affairs, this announcement cannot be longer delayed; and I would suggest for your consideration whether, in order to lessen its effect, you would withdraw the denunciation of Articles V and VI, which, if I rightly understood your verbal explanation, the Hawaiian Government do not really wish to terminate. As the purpose for which we entered into private communication does not seem likely to be accomplished, I would suggest that your further letters should be addressed to Lord Derby.

I have the honor to be, Sir, your most obedient, humble servant,

(Signed)

TENTERDEN.



## CARTER'S DECLARATION TO THE ANGLO-HAWAIIAN TREATY OF JULY, 1851.

Certain relations of proximity having led to regulations for the importation into the ports of the United States of America of certain articles the growth, produce and manufacture of the Hawaiian Islands, and into the ports of the Hawaiian Islands the growth, produce or manufacture of the United States of America by special stipulations of a Treaty now in force and which may be renewed, said stipulations being in no manner connected with the existing regulations of customs and duties in general, the two high contracting parties hereto being desirous of removing from their commercial relations all ambiguity on subjects of discussion, have agreed that the fourth Article of the Anglo-Hawaiian Treaty of 1851, of which this Article shall form a part, shall not be held applicable to the exceptions in the general tariff of customs and duties resulting therefrom or from any Conventions or Treaty of Reciprocity between the Hawaiian Islands and any other neighboring country in or bordering upon the Pacific Ocean. It is further agreed, that during the existence of any such Convention or Treaty of Reciprocity the customs and duties levied in the ports of the Hawaiian Islands upon the following goods being the growth, produce or manufacture of Her Britannic Majesty's dominions shall not exceed ten per cent. *ad valorem*, viz.: Plain cottons, printed cottons, hardware, iron and steel manufactures, saddlery, machinery, woolen goods (other than ready made clothing); and further, that all other articles being the growth, produce or manufacture of Her Britannic Majesty's dominions, and all articles the growth, produce or manufacture of the Hawaiian Islands, which can be legally imported into the ports of the respective countries, shall be entitled in said ports to any exemptions, except as provided in such Treaties, as accorded in any way to like articles the growth, produce or manufacture of any other nation.

The present additional Article shall take effect as soon as it shall have been ratified by Her Majesty and His Majesty the King of the Hawaiian Islands and said ratification shall have been exchanged, and shall be considered as a part of said Anglo-Hawaiian

Treaty of July, 1851, having the same force and effect as if it had been inserted when that Treaty was made.

Ratifications of this Article shall be exchanged within six months of this date, or as soon as possible, in the city of London.

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## FRENCH TREATY, 8TH SEPTEMBER, 1858—EXTRACT.

### ARTICLE XXV.

It is formally agreed between the two contracting parties, that besides the preceding stipulations, the Diplomatic and Consular Agents, the subjects of every class, the ships, the cargoes and the merchandise of either of the two States, shall enjoy in full right in the other the franchises, privileges and immunities of every kind, granted to or which may be hereafter granted in favor of the most favored nation; and this gratuitously if the concession be gratuitous, or with the same compensation if the concession be conditional.

It is specially stipulated that the postal arrangements concluded in Honolulu on the 24th of November, 1853, and which regulate the exchange of correspondence between the Society Islands and the Hawaiian Archipelago, and reciprocally, shall be maintained; and that the two contracting parties reserve to themselves only the right of modifying the details thereof, in the proportion and measure that hereafter necessity may point out.

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HONOLULU, April 18th, 1867.

MY DEAR SIR: In conformity with your request, I transmit to you a resume of the conversation we had at my office on the 15th inst. In answer to your enquiry as to the objects of the mission of the Minister of Finance in the United States, I stated to you that he was instructed to propose to negotiate a special reciprocity convention on the basis of that agreed upon in 1855 between the Hawaiian and American plenipotentiaries in Washington, but subsequently rejected by Congress.

I added that should any objection be made to treat on that basis, in view of our increased production of sugar, His Majesty's Plenipotentiary was instructed to negotiate on the basis of a reduced rate of du-

ties, and to give up other Hawaiian produce if necessary, saving and excepting sugar.

In regard to the denunciation of our Treaty with the United States for the purpose of striking out the 7th article, you remarked to me that that clause being inserted in our Treaties with England, Sweden and Norway, our present action in Washington implied a similar one in London and Stockholm, to which I assented stating that such were our intentions and that I would at no distant day so notify you officially.

In answer to your question how far the conclusion of a special reciprocity convention with the United States would affect the importation of articles of British manufacture, and how far in my opinion the parity clause applied to such a convention, I replied that an answer to the first part of the question could not be given until we knew exactly ourselves what the U. S. Government would claim in exchange for the admission of our produce, either free of duties or at a reduced rate, but that the convention if agreed upon in Washington, had to receive the ratification of the King and would have to be discussed in the Legislative Assembly. Since by the 29th article of our constitution, Treaties involving changes in the 'Tariff' have to be referred for approval to the said Legislative Assembly, as to the effect of the parity clause, I stated to you that I understood it to secure to Great Britain the right of claiming the same advantages given in such a case to the United States on her conceding the same compensation, but not otherwise—the rest of our conversation does not appear to me to come within the scope of this memorandum—should however my memory be at fault and should any omission of importance occur to you, be pleased to point it out to me, and I will be happy to repair it.

Believe me, my dear Sir, very sincerely yours,

(signed) C. DE VARIGNY.

To J. H. Wodehouse, H. B. M's Commissioner etc. etc.







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